

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4660 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MIYANA RATANBEN W/O MOHMED

Versus

DISTRICT MAGISTRATE

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Appearance:

MR ANIL S DAVE for Petitioner

MR. NIGAM SHUKLA, ADDL. G.P. for respondents

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 22/10/96

ORAL JUDGEMENT

Miyana Ratnaben has challenged her detention order dated 22.4.1996 passed by the District Magistrate, Surendranagar, whereby she has been detained under the provisions of Prevention of Anti-Social Activities Act, 1985. The detention order was executed on the same date i.e. 22.4.1996 and at that time the petitioner was lodged in the Junagadh Jail, Junagadh. However, Mr. Dave,

learned counsel for the petitioner, has placed on record an order dated 25.6.1996 passed by the Home Department (Special) showing that she has been transferred to Ahmedabad Central Prison at Sabarmati and it has been submitted that at present the petitioner is under detention lodged at the aforesaid jail, Sabarmati.

2. The present Special Civil Application was filed on 4.7.1996 and on 5.7.1996 rule returnable for 12th August, 1996 was issued. So far neither any reply has been filed by the respondent nor any affidavit of the detaining authority has been filed.

3. The grounds enclosed with the detention order show that there were as many as 34 criminal cases registered against the petitioner under the prohibition Act. It has been noticed that out of 34 cases as aforesaid, 28 cases pending trial and 6 cases pending police investigation. The petitioner has been detailed on account of her bootlegging activities and being engaged in the anti-social activities of unauthorised liquor business.

4. The detention order has been challenged on number of grounds but the learned counsel for the petitioner at the time of argument has confined his submissions to the question that the copies of the bail applications and bail orders in any of the 34 cases which were registered against the petitioner were not supplied. This factual position has not been contested and all that has been stated by the learned Addl. Government Pleader is that in some cases copies of the bail bonds had been supplied. Thus, the fact remains that copies of the bail applications and bail orders in none of the cases were supplied to the petitioner. The copies of the bail applications and bail orders have been held to be vital and relevant documents to make an effective representation under Article 22(5) of the Constitution of India. In view of the uncontroverted factual position of these vital and relevant documents could not be supplied to the petitioner, the impugned detention order cannot be sustained in the eye of law.

5. Accordingly, the impugned detention order dated 22.4.1996 passed by the District Magistrate, Surendranagar, is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release and set her at liberty forthwith, if not required in any other case. The writ may be sent to the Ahmedabad Central Prison, at Sabarmati. Rule is made absolute.

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